

Agenda Date: 10/22/04

Agenda Item: III B

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF COMCAST)	RENEWAL
OF NEW JERSEY, LLC FOR A RENEWAL)	<u>CERTIFICATE OF APPROVAL</u>
CERTIFICATE OF APPROVAL TO CONTINUE)	
TO CONSTRUCT, OPERATE AND MAINTAIN)	
A CABLE TELEVISION SYSTEM AND CABLE)	
COMMUNICATIONS SYSTEM IN AND FOR)	
THE CITY OF LINDEN, COUNTY OF UNION,)	
STATE OF NEW JERSEY)	DOCKET NO. CE04070723

SERVICE LIST ATTACHED

BY THE BOARD:

On November 2, 1977, the Board granted Suburban Cablevision ("Suburban") a Certificate of Approval in Docket No. 773C-6263 for the construction, operation and maintenance of a cable television system in the City of Linden ("City"). On March 12, 1993, the Board approved the renewal of the Certificate of Approval to Suburban in Docket No. CE92111044. On November 30, 1994, the Board approved the acquisition of the shares of the parent company of Suburban Cablevision, Maclean Hunter, Inc., by Comcast MH Holdings, Inc. in Docket No. CM94080365. Subsequently, the company was known as Comcast Cablevision of New Jersey, Inc. ("Comcast New Jersey"). On January 24, 2003, Comcast New Jersey notified the Board that it would operate as a limited liability company, Comcast Cablevision of New Jersey II, LLC. On September 9, 2003, Comcast Cablevision of New Jersey, LLC notified the Board that it would be known as Comcast of New Jersey II, LLC ("Petitioner"). Although the Petitioner's above referenced Certificate expired on November 2, 2002 it is authorized to continue to provide cable television service to the City pursuant to N.J.S.A. 48:5A-25, pending disposition of proceedings regarding the renewal of its Certificate of Approval.

The Petitioner filed an application for the renewal of its municipal consent with the City on February 1, 2002, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The City, after public hearing, adopted a municipal ordinance granting renewal consent to the Petitioner on May 18, 2004. On June 10, 2004, the Petitioner formally accepted the terms and conditions of the ordinance, in accordance with N.J.S.A. 48:5A-24.

On July 26, 2004, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the City. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board **HEREBY FINDS** the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the City reviewed these qualifications in conjunction with the municipal consent process.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is 15 years to expire on November 3, 2017. The Board finds this period to be of reasonable duration.
5. The City may review the performance of the Petitioner with regard to the ordinance by the end of the fifth and tenth year of the consent term as specified in the ordinance. During the period beginning at the fourth anniversary of the date of this Certificate and ending six months prior to the fifth anniversary, the Petitioner shall notify the City advising it of its right to review the Petitioner's performance under the ordinance. Any review shall be completed within six months of the initiating letter sent to the City. If the City determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, the City shall provide written notice to the Petitioner of such alleged instances of non-compliance and shall grant the Petitioner an opportunity to cure such deficiency. The City may petition the Board for appropriate administrative action, including revocation of the franchise or reduction of the franchise term, only after the opportunity to cure has passed and the deficiency has not been cured. The procedures listed above may also be used for the review specified for the tenth anniversary.
6. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
7. Pursuant to statutory requirements, the ordinance specifies a complaint officer to receive and act upon complaints filed by subscribers in the City. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with the applicable rules.

8. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. Currently, the local office serving this provision is located at 800 Rahway Avenue, Union, New Jersey.
9. The franchise fee to be paid to the City is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the City. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
10. The Petitioner shall provide service along any public right-of-way to any person's residence or business located in all areas of the franchise territory at tariffed rates for standard and non-standard installation. In all other circumstances, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate. The minimum homes per mile figure is 35.
11. The Petitioner shall provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application and the ordinance. Specifically, the Petitioner shall continue to provide the City with three PEG access channels for use by the City and its designees for non-commercial PEG access programming. The Petitioner shall be deemed to have fulfilled its obligation if those three PEG access channels are shared by the City with the six other municipalities which now share the PEG access channels. Qualified individuals and organizations may utilize public access for the purpose of cablecasting non-commercial access programming in conformance with the Petitioner's published public access rules. The Petitioner also maintains fully equipped operational local production studios in Union Township and Woodbridge Township for the creation of local and access programming.
12. To the extent the Petitioner currently makes available to the City, it shall provide a mobile production van, for one event per month and make said van available to the City or its PEG access designee, in accordance with the ordinance and consistent with the Petitioner's published rules and regulations on use of the vehicle.
13. The Petitioner shall, at its own cost and expense, provide the necessary wiring and related materials (studio equipment including modulator and demodulator), engineering and other labor for up to two returns for the use of existing or future PEG access designees in addition to the return feed now in use by the City's existing PEG access designee. Such returns shall be installed at places of the PEG access designee's choosing, providing that the wiring for any such return is technically practicable and can be accomplished without extraordinary expense.
14. Upon request of the City, the Petitioner shall offer, at locations in the City, seminars on the production of television programming for the training of personnel who will assist with productions originated by the PEG access designees and shall also offer seminars providing such training to City schools.

15. Within 12 months of the date of adoption of the ordinance, the Petitioner shall provide to the City a one time grant in the amount of \$95,000.00 for the City's cable related needs. Upon completion of this provision, the Petitioner shall submit proof to the Office of Cable Television indicating its compliance with this provision.
16. Within 12 months of the date of adoption of the ordinance, the Petitioner shall provide to the City a one time grant in the amount of \$20,000.00 for production equipment to be acquired by the City. Upon completion of this provision, the Petitioner shall submit proof to the Office of Cable Television indicating its compliance with this provision.
17. The Petitioner shall provide, maintain and upgrade the standard installation and basic cable service, free of charge, to one outlet at each public and private school facility, all public libraries, and municipal facilities within the City, provided that the facility is within 200 feet of activated cable distribution plant.
18. Upon request of the City, the Petitioner shall continue to provide the City's Office of Emergency Management with local origination programming assistance in developing and implementing an Emergency Management alert, reporting and updating system for the local access channel.
19. At the written request of the City, the Petitioner shall meet with the City's designee or Advisory Committee at least every four months to review all matters related to cable television in the City, with the minutes of such meetings to be delivered to the Petitioner and to be filed by the City. The Committee might act as the City Council's representative in matters dealing with the franchise itself.

Based upon these findings, the Board **HEREBY CONCLUDES**, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has the municipal consent necessary to support the petition, that such consent and issuance thereof are in conformity with the requirements of N.J.S.A. 48:5A-1 et seq., that the Petitioner has complied or is ready, willing and able to comply with all applicable rules and regulations imposed by or pursuant to State or federal law as preconditions for engaging in the proposed cable television operations, that the Petitioner has sufficient financial and technical capacity, meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment, and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is **HEREBY ISSUED** this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the City.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein. The Petitioner shall adhere to the standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. §76.1 et seq., including but not limited to, the technical standards 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Certificate.


Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire on November 3, 2017.

DATED: 10/22/04

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

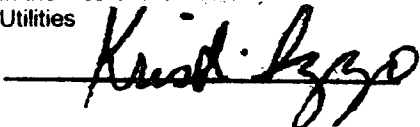

CONNIE O. HUGHES
COMMISSIONER


JACK ALTER
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



APPENDIX "I"
OFFICE OF CABLE TELEVISION
LINE EXTENSION POLICY

COMCAST OF NEW JERSEY II, LLC
CITY OF LINDEN

A cable operator is required to absorb the cost of extensions to the system in the same proportion that the extension is to the remainder of the system.

Actual subscribers served by the extension are required to absorb the remainder of the cost.

If new subscribers are added to the extension the cost is adjusted and those who previously paid receive an appropriate rebate.

- | | | |
|---|---|---|
| 1. <u># of homes in extension</u>
mileage of extension | = | homes per mile (HPM) of
extension |
| 2. <u>HPM of extension</u>
Minimum HPM that
company actually
constructs in the
system * | = | ratio of the density of
the extension to the
minimum density which the
company constructs in the
system ("A") |
| 3. Total cost of building
the extension times "A" | = | company's share of
extension cost |
| 4. Total cost of building
extension less company's
share of extension cost | = | total amount to be
recovered from
subscribers |
| 5. Total amount to be
<u>recovered from subs</u>
Total subscribers in extension | = | each subscriber's share |

In any case, the company shall extend its plant along public rights of way to:

1. All residences and businesses within 150 aerial feet of the operator's existing plant at no cost beyond the normal installation rate.
2. All residences and businesses within 100 underground feet of the operator's plant at no cost beyond the normal installation rate.

* The minimum HPM that the company actually constructs in the system or municipality is the minimum number of homes that the company has historically constructed at its own cost. This is a function of the operator's break-even point and its rate of return. Unbuilt systems will use the primary service area rather than construction.

The operator's installation policies shall apply to construction beyond the public right of way.

Detailed accounting and/or financial information to support the minimum HPM shall be supplied to the Office for its approval in such form as required. The minimum HPM shall be updated as appropriate.

When a request for service is received, and unless good cause is shown, cable companies shall:

1. Provide a written estimate within 30 days of such a request.
2. Begin construction within 60 days of receipt of any deposit monies from potential subscribers.
3. Complete construction within six months of receipt of any deposit monies from potential subscribers.
4. Inform each home passed along the extension of the potential costs for subscribers.

Subscribers who pay for an extension shall be entitled to rebates in the following manner:

1. If the company acquires new subscribers subsequent to the initial calculation of step 5 above, the formula will be adjusted and those who have previously paid for the extension will be entitled to an appropriate rebate. In no event shall the amount of the rebate exceed the subscriber's contribution.
2. The company shall keep accurate records of the cost of the extension, the amounts paid by subscribers and any appropriate adjustments.
3. The company shall notify subscribers in the extension of their rights and responsibilities concerning the extension.
4. Once an individual dwelling has paid its share of the extension cost future reconnections or installations shall be made at the company's standard rates.
5. After a period of five years from the installation of the first dwelling unit in the extension no further adjustments shall be made. Installations after five years shall be at the company's standard rate.
6. Once a subscriber is installed, that person shall not normally be entitled to a refund of any monies paid for the installations, except in accordance with the rebate procedure outlined in this policy.

Definitions

Primary Service Area

The Primary Service Area (PSA) can be an entire municipality, but in many instances the PSA is a limited area within a community outside of which a line extension policy may apply. The PSA is depicted by a franchise map and narrative, presented and recorded during the franchise proceedings. It normally remains a fixed geographic area throughout the life of the franchise.

Line Extension Survey

Potential subscribers residing outside the PSA who request service are entitled to an estimate of their share of the cost to secure service. When conducting a survey and estimating costs, a cable company should factor in all potential subscribers who could practicably be included in the extension and give consideration to apparent residential construction in areas contiguous to the proposed extension.

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